

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN BARNES

Plaintiff,

v.

JAMES WALTERS, et al.,

Defendants.

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Civil Action No. 3:21-CV-3099-X-BT

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. [Doc. No. 14]. Plaintiff Stephen Barnes, proceeding *pro se* and *in forma pauperis*, sued James Walters, Andre Salone, Stephen Holt, and the Dallas Department of Veterans Administration Medical Center (collectively, the “Defendants”), alleging that the Defendants discriminated against him because of his age and then retaliated against him for “fighting back” against that discrimination.¹ The Magistrate Judge concluded that the amended complaint does not state a claim upon which relief can be granted, and thus recommended that the Court dismiss Barnes’s claims pursuant to 28 U.S.C. § 1915(e)(2)(b).²

Barnes filed objections to the Magistrate Judge’s reports and argued he has

¹ See Doc. No. 14 at 2–3.

² Doc. No. 14 at 12.

“stated more than enough facts” to substantiate his claim.³ But he fails to address the Magistrate Judge’s concern that he “d[id] not allege any specifics about the position he was not promoted to, much less that he was qualified for it,” which are two of the necessary showings for a *prima facie* age discrimination case.⁴ Nor does he “provide [] details . . . about his job responsibilities” or the timing of the alleged adverse actions sufficient to remedy the Magistrate Judge’s stated concerns with his retaliation claim.⁵ Accordingly, the Court **OVERRULES** Barnes’s objection.

The District Court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendations, to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. The Court **ACCEPTS** the Findings, Conclusions, and Recommendations of the United States Magistrate Judge. Because, as the Magistrate Judge correctly notes, Barnes has already pleaded his “best case” and failed to state a claim,⁶ the Court **DISMISSES WITH PREJUDICE** Barnes’s complaint under 28 U.S.C. § 1915(e)(2)(B).

IT IS SO ORDERED this 16th day of February, 2023.



BRANTLEY STARR
UNITED STATES DISTRICT JUDGE

³ Doc. No. 15 at 1.

⁴ Doc. No. 14 at 6–7 (citing *Smith v. City of Jackson, Miss.*, 351 F.3d 183, 196 (5th Cir. 2003)).

⁵ See *id.* at 9–10.

⁶ *Id.* at 11 (citing *Wiggins v. La. State Univ.—Health Care Servs. Div.*, 710 Fed. App’x 625, 627 (5th Cir. 2017) (cleaned up)).